

Exhibit 7

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UNITED STATES DISTRICT COURT
SOUTHERN DIVISION OF NEW YORK

SMART INSURANCE COMPANY,) Case No.
Plaintiff,) 1:15-cv-04384 (KBF)
vs.)
BENECARD SERVICES, INC.,)
Defendant.)

Videotaped Deposition of GERARD MULCAHY

Baltimore, Maryland

June 29, 2016

9:50 a.m.

Reported by: Bonnie L. Russo

<p style="text-align: right;">Page 122</p> <p>1 BY MR. PENDLETON:</p> <p>2 Q. The -- how did you know that Smart</p> <p>3 had hired Babette Edgar as a consultant?</p> <p>4 A. I believe that they reported it to</p> <p>5 us in one of their work plans.</p> <p>6 Q. And do you see that Stephanie is</p> <p>7 writing to John Gardynik about a conversation</p> <p>8 that Babette had recently had with Trish Axt?</p> <p>9 Do you see that?</p> <p>10 MR. BARNOWSKI: Object to form.</p> <p>11 THE WITNESS: I do see that.</p> <p>12 BY MR. PENDLETON:</p> <p>13 Q. Okay. And there are a list of</p> <p>14 things that Stephanie suggests to Mr. Gardynik</p> <p>15 might help him prepare for his upcoming</p> <p>16 meeting, correct?</p> <p>17 MR. BARNOWSKI: Object to form.</p> <p>18 MR. YU: Objection.</p> <p>19 MR. BARNOWSKI: Mischaracterizes the</p> <p>20 document as well.</p> <p>21 MR. YU: I mean the -- objection.</p> <p>22 The witness is not here -- I don't -- I don't</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. And do you recall that one of the</p> <p>2 issues was the -- the -- the sufficiency of</p> <p>3 resources, including full-time clinical</p> <p>4 pharmacists?</p> <p>5 MR. BARNOWSKI: Object to form.</p> <p>6 THE WITNESS: I do recall that.</p> <p>7 BY MR. PENDLETON:</p> <p>8 Q. And that Smart had represented it</p> <p>9 was going hire some additional clinical</p> <p>10 staffing?</p> <p>11 MR. BARNOWSKI: Object to form.</p> <p>12 THE WITNESS: I do recall that.</p> <p>13 BY MR. PENDLETON:</p> <p>14 Q. Did you have any conversations with</p> <p>15 Smart personnel or ask people that work for you</p> <p>16 to have conversations with Smart personnel</p> <p>17 about the necessity to make sure their</p> <p>18 oversight of the PBM was rigorous in order to</p> <p>19 ensure compliance with CMS regulations?</p> <p>20 MR. BARNOWSKI: Object to form.</p> <p>21 THE WITNESS: I don't recall that,</p> <p>22 but that's a -- a basic tenet of the</p>
<p style="text-align: right;">Page 123</p> <p>1 -- I don't believe it's fair for -- to ask</p> <p>2 Mr. Mulcahy to opine on what Ms. -- Ms. Bayer</p> <p>3 meant or didn't mean in writing this e-mail.</p> <p>4 MR. PENDLETON: Well, I -- yeah. I</p> <p>5 wasn't asking him that. Let me ask another</p> <p>6 question.</p> <p>7 BY MR. PENDLETON:</p> <p>8 Q. Do you see on No. 6?</p> <p>9 A. I do see No. 6.</p> <p>10 Q. Did you or Trish Axt ever</p> <p>11 communicate to Smart or its consultants that</p> <p>12 Smart the insurance company did not understand</p> <p>13 how rigorous the oversight of its PBM had to be</p> <p>14 and that it was not fully staffed for it?</p> <p>15 MR. BARNOWSKI: Object to form.</p> <p>16 THE WITNESS: I don't specifically</p> <p>17 recall.</p> <p>18 BY MR. PENDLETON:</p> <p>19 Q. Okay. Do you recall the work plan</p> <p>20 request we went over, your formal letter dated</p> <p>21 May 17, 2013?</p> <p>22 A. I do.</p>	<p style="text-align: right;">Page 125</p> <p>1 participation in the program.</p> <p>2 BY MR. PENDLETON:</p> <p>3 Q. By early June 2013, do you recall</p> <p>4 communicating to Smart or any of its personnel</p> <p>5 or asking people that work for you to do so</p> <p>6 that CMS had continuing concerns about the</p> <p>7 plan's compliance with CMS regulations?</p> <p>8 MR. BARNOWSKI: Object to form.</p> <p>9 THE WITNESS: I don't -- I don't</p> <p>10 recall the specific timing. But we had</p> <p>11 continued and ongoing concerns about their</p> <p>12 compliance throughout the entire time they</p> <p>13 operated from the audit until the novation.</p> <p>14 BY MR. PENDLETON:</p> <p>15 Q. And after the audit, did the same</p> <p>16 level of concern that you had prior to the</p> <p>17 audit continue up until the time of the</p> <p>18 novation?</p> <p>19 MR. BARNOWSKI: Object to form.</p> <p>20 MR. YU: Hold on. I'm going to --</p> <p>21 consistent with the approval, I'm going to ask</p> <p>22 the witness to focus his answer on what he</p>

32 (Pages 122 - 125)